

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BREEDEN MEDIA LLC,)
)
Plaintiff,) Case No. 3:24-cv-00723
)
v.) Judge Aleta A. Trauger
)
THE DAILY WIRE, LLC,) JURY DEMAND
)
Defendant.)

DEFENDANT'S MOTION TO DISMISS

Defendant respectfully moves the Court to dismiss Plaintiff's lawsuit for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendant is a media company and commented on an excerpt of the video in question as part of standard news reporting and commentary regarding political events. Defendant's use was licensed and fair use. In addition, Plaintiff lacks statutory standing to pursue its claim given the rights that its purported assignor had previously relinquished when he posted the video on X (formerly known as Twitter) in accordance with X's Terms of Service. In the alternative, Defendant respectfully requests that the Court order Plaintiff to post a cost bond as a condition to continuing to pursue this dubious case. *See Mondragon v. Nosrak LLC*, 500 F. Supp. 3d 1175, 1178 (D. Colo. 2020).

In support of its Motion, Defendant concurrently submits a Memorandum of Law.

Respectfully submitted,

s/ W. Russell Taber, III

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF filing system this the 8th day of August, 2024 upon the following:

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